

MESSAGE NO: 6080201

MESSAGE DATE: 03/21/2006

MESSAGE STATUS: Active

CATEGORY: Antidumping

TYPE: ADM

PUBLIC ☒

NON-PUBLIC ☐

SUB-TYPE:

FR CITE: FR

FR CITE DATE:

REFERENCE
MESSAGE #
(s):

CASE #(s): A-552-801, A-555-801

EFFECTIVE DATE:

COURT CASE #:

PERIOD OF REVIEW:

TO

PERIOD COVERED: 10/22/2004 TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: PRELIMINARY AFFIRMATIVE DETERMINATION OF CIRCUMVENTION OF THE
ANTIDUMPING DUTY ORDER ON CERTAIN FROZEN FISH FILLETS FROM VIETNAM (A-552-
801), CAMBODIA (A-555-801)

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CASES: A - 552 - 801

A - 555 - 801

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PERIOD COVERED: 10 22 2004 TO

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS

PORT DIRECTORS

FROM: DIRECTOR, SPECIAL ENFORCEMENT

RE: PRELIMINARY AFFIRMATIVE DETERMINATION OF CIRCUMVENTION
OF THE ANTIDUMPING DUTY ORDER ON CERTAIN FROZEN FISH FI
LLETS FROM VIETNAM (A-552-801), CAMBODIA (A-555-801)

1. ON FEBRUARY 22, 2006, THE DEPARTMENT OF COMMERCE PUBLISHED IN
THE FEDERAL REGISTER ITS NOTICE OF AN AFFIRMATIVE PRELIMINARY
DETERMINATION OF CIRCUMVENTION OF THE ANTIDUMPING DUTY ORDER ON
FROZEN FISH FILLETS FROM VIETNAM (71 FR 9086).

2. SCOPE OF THE ANTIDUMPING DUTY ORDER

THE SCOPE OF THE ANTIDUMPING DUTY ORDER INCLUDES FROZEN FISH

FILLETS, INCLUDING REGULAR, SHANK AND STRIP FILLETS AND PORTIONS THEREOF, WHETHER OR NOT BREADED OR MARINATED, OF THE SPECIES PANGASius BOCOURTI, PANGASius HYPOPHTHALAMUS (ALSO KNOWN AS PANGASius PANGASius), AND PANGASius MICRONEMUS. FROZEN FISH FILLETS ARE LENGTHWISE CUTS OF WHOLE FISH. THE FILLET PRODUCTS COVERED BY THE SCOPE INCLUDES BONELESS FILLETS WITH THE BELLY FLAP INTACT ("REGULAR FILLETS"), BONELESS FILLETS WITH THE BELLY FLAP REMOVED ("SHANK FILLETS"), BONELESS SHANK FILLETS CUT INTO STRIPS ("FILLET STRIPS/FINGER"), WHICH INCLUDES FILLETS CUT INTO STRIPS, CHUNKS, BLOCKS, SKEWERS, OR ANY OTHER SHAPE.

SPECIFICALLY EXCLUDED FROM THE SCOPE ARE FROZEN WHOLE FISH (WHETHER OR NOT DRESSED), FROZEN STEAKS AND FROZEN BELLY-FLAP NUGGETS. FROZEN WHOLE DRESSED FISH ARE DEHEADED, SKINNED AND EVISCERATED. STEAKS ARE BONE-IN, CROSS-SECTION CUTS OF DRESSED FISH. NUGGETS ARE THE BELLY FLAPS.

THE SUBJECT MERCHANDISE WILL BE HEREINAFTER REFERRED TO AS FROZEN "BASA" AND "TRA" FILLETS, WHICH ARE THE VIETNAMESE COMMON NAMES FOR THESE SPECIES OF FISH. THE PRODUCTS COVERED BY THE ANTIDUMPING DUTY ORDER ARE CLASSIFIABLE UNDER TARIFF ARTICLE CODES 0304.20.60.30 (FROZEN CATFISH FILLETS), 0304.20.60.33 (PANGASius FILLETS), 0304.20.60.43 (FROZEN FRESHWATER FISH FILLETS), 0304.20.60.57 (FROZEN SOLE FILLETS) AND 0304.20.60.96 (FROZEN FISH FILLETS, NESOI) OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES ("HTSUS"). ALTHOUGH THE HTSUS SUBHEADINGS ARE PROVIDED, THE WRITTEN DESCRIPTION OF THE SCOPE OF THE SCOPE OF THE ORDER IS DISPOSITIVE.

3. SCOPE OF THE CIRCUMVENTION INQUIRY

THE PRODUCT SUBJECT TO THIS CIRCUMVENTION INQUIRY IS FROZEN FISH FILLETS PRODUCED IN THE KINGDOM OF CAMBODIA FROM FISH OF VIETNAMESE ORIGIN AND OF THE SPECIES PANGASius BOCOURTI, PANGASius HYPOPHTHALAMUS (ALSO KNOWN AS PANGASius PANGASius), OR PANGASius MICRONEMUS PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND EXPORTED TO THE UNITED STATES.

4. THE DEPARTMENT HAS PRELIMINARILY DETERMINED TO CONSIDER ALL ENTRIES OF FROZEN FISH FILLETS PRODUCED BY LIAN HENG TRADING CO. LTD. ("LIAN HENG TRADING") AND LIAN HENG INVESTMENT CO. LTD. ("LIAN HENG INVESTMENT") AND MADE FROM FISH OF THE SPECIES PANGASIU BOCOURTI, PANGASIU HYPOPHTHALAMUS (ALSO KNOWN AS PANGASIU PANGASIU), AND PANGASIU MICRONEMUS ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION, ON OR AFTER OCTOBER 22, 2004, THROUGH JULY 15, 2005, TO BE PRODUCED FROM VIETNAMESE-ORIGIN FISH AND THUS SUBJECT TO THE ANTIDUMPING DUTY ORDER ON FROZEN FISH FILLETS FROM VIETNAM.

FOR ALL ENTRIES OF FROZEN FISH FILLETS PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND ENTERED OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION, ON OR AFTER JULY 16, 2005 THAT ARE PRODUCED FROM THE ABOVE REFERENCED SPECIES, THE DEPARTMENT IS ALLOWING LIAN HENG TRADING AND LIAN HENG INVESTMENT TO PROVIDE A CERTIFICATE STATING THAT THE ENTERED PRODUCT WAS NOT PRODUCED FROM VIETNAMESE-ORIGIN FISH. THE CERTIFICATION IS ATTACHED AND CAN BE FOUND IN ATTACHMENT I OF THE FEDERAL REGISTER NOTICE (71 FR 9086). ANY ENTRIES OF FROZEN FISH FILLETS OF THE REFERENCED SPECIES PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT ON OR AFTER JULY 16, 2005, ACCOMPANIED BY THIS CERTIFICATION SHALL NOT BE SUBJECT TO THE ANTIDUMPING DUTY ORDER ON FROZEN FISH FILLETS FROM VIETNAM. ANY ENTRIES OF FROZEN FISH FILLETS OF THE REFERENCED SPECIES ON OR AFTER JULY 16, 2005, PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT THAT ARE NOT ACCOMPANIED BY THIS CERTIFICATION SHALL BE CONSIDERED SUBJECT TO THE ANTIDUMPING DUTY ORDER ON FROZEN FISH FILLETS FROM VIETNAM.

5. FOR IMPORTS OF FROZEN FISH FILLETS THAT MEET THE REQUIREMENTS FOR THE MERCHANDISE SUBJECT TO THE ANTIDUMPING DUTY ORDER AS DESCRIBED ABOVE PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER OCTOBER 22, 2004, UNTIL JULY, 15, 2005, UNITED STATES CUSTOMS AND BORDER PROTECTION ("CBP") SHALL SUSPEND LIQUIDATION OF SUCH SHIPMENTS.

IN ADDITION, EFFECTIVE OCTOBER 22, 2004, CBP SHALL REQUIRE, FOR ALL ENTRIES PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT FROM OCTOBER 22, 2004 THROUGH JULY 15, 2005, A CASH DEPOSIT EQUAL TO THE MARGIN SHOWN BELOW:

MANUFACTURER/PRODUCER/EXPORTER	CUSTOMS ID NUMBER	MARGIN PERCENTAGE
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LIAN HENG TRADING	A-555-801-001	63.88
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LIAN HENG INVESTMENT	A-555-801-002	63.88
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6. FOR IMPORTS OF FROZEN FISH FILLETS ENTERING ON OR AFTER JULY 16, 2005, THAT MEET THE REQUIREMENTS FOR THE MERCHANDISE SUBJECT TO THE ANTIDUMPING DUTY ORDER AND ARE PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT, THAT ARE NOT ACCOMPANIED BY A CERTIFICATE STATING THAT NO VIETNAMESE-ORIGIN FISH WAS USED IN THE PRODUCTION OF THE ENTERED PRODUCT, WILL BE SUBJECT TO A CASH DEPOSIT EQUAL TO THE MARGIN SHOWN BELOW:

MANUFACTURER/PRODUCER/EXPORTER	CUSTOMS ID NUMBER	MARGIN PERCENTAGE
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LIAN HENG TRADING	A-555-801-001	63.88
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LIAN HENG INVESTMENT	A-555-801-002	63.88
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7. FOR ENTRIES OF FROZEN FISH FILLETS THAT MEET THE REQUIREMENTS FOR THE MERCHANDISE SUBJECT TO THE ANTIDUMPING DUTY ORDER AS DESCRIBED ABOVE PRODUCED BY LIAN HENG TRADING OR LIAN HENG INVESTMENT AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER OCTOBER 22, 2004 AND ARE SET FOR LIQUIDATION NEED TO BE UNSET IMMEDIATELY.

8. SPECIAL NOTE - THE ACTUAL INITIATION DATE IS OCTOBER 22, 2004 AND THE PRELIMINARY DETERMINATION DATE IS FEBRUARY 22, 2006.

HOWEVER, IN ORDER FOR THE ACS MODULE TO ACCEPT THE CORRECT EFFECTIVE DATE FOR THE SUSPENSION OF LIQUIDATION (OCTOBER 22, 2004), IT WAS NECESSARY TO LIST OCTOBER 22, 2004 AS BOTH THE EFFECTIVE DATE OF SUSPENSION OF LIQUIDATION AND THE DATE OF THE PRELIMINARY DETERMINATION. THIS IS DIFFERENT FROM THE DATES LISTED IN THE FEDERAL REGISTER NOTICE (71 FR 9086).

IN ADDITION, THE ACS MODULE REQUIRES THAT THE INITIATION DATE BE AT LEAST ONE DAY PRIOR TO THE DATE OF THE PRELIMINARY DETERMINATION. THEREFORE, THE MODULE LISTS OCTOBER 21, 2004 AS THE INITIATION DATE.

9. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CBP OFFICERS, THE IMPORTING PUBLIC OR INTERESTED PARTIES, PLEASE CONTACT DAVINA HASHMI OR RON TRENTAM AT OFFICE OF AD/CVD ENFORCEMENT, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-3577 (GENERATED BY O9:KR).

10. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

CATHY SAUCEDA

CERTIFICATION TO U.S. CUSTOMS AND BORDER PROTECTION

1. Lian Heng hereby certifies that the frozen fish fillets being exported and subject to this certification were not produced from fish of Vietnamese origin of the following species: Pangasius Bocourti (commonly known as basa or trey basa), Pangasius Hypophthalmus (also known as Pangasius Pangasius and commonly known as tra or trey pra), or Pangasius Micronemus.

2. By signing this certificate, Lian Heng also hereby agrees to maintain sufficient documentation supporting the above statement such as country of origin certificates for all fish used to process the exported frozen fish fillets. n2 Further, Lian Heng agrees to submit to verification of the underlying documentation

supporting the above statement. Lian Heng agrees that failure to submit to verification of the documentation supporting these statements will result in immediate revocation of Lian Heng's certification rights and that Lian Heng will be required to post a cash deposit equal to the Vietnam-wide entity rate on all entries of frozen fish fillets of the species *Pangasius Bocourti* (commonly known as basa or trey basa), *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius* and commonly known as tra or trey pra), or *Pangasius Micronemus*. In addition, if the Department of Commerce identifies any misrepresentation or inconsistencies regarding the certifications, it may report the matter to Customs and Border Protection for possible enforcement action.

n2 Documentation may include, but is not limited to the records that (EXPORTER OF RECORD) is required to maintain by the United States Food and Drug Administration's HACCP program and Bioterrorism Act of 2002 and other documents kept in the normal course of business.

Signature:

Printed Name:

Title:

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party